

Request for City Council Action

Date: July 15th, 2002

To: Council Member Lisa Goodman, Community Development Committee

Prepared by Dollie Crowther, Phone 612-673-5263
Cherre' Palenius, Phone 612-673-5241

Approved by Chuck Lutz, MCDA Interim Executive Director _____

Subject: Request for Final Approval of up to \$10,710,000 of Tax Exempt Multi-family Housing Revenue Bonds and \$520,000 of 501(c)(3) Bonds for 17th Avenue Housing Limited Liability Company.

Previous Directives: In 1991 the City Council approved Housing Revenue Bonds issued through the Minneapolis Common Bond Fund. On June 24th, the City Council gave preliminary approval and a public hearing was held for tax exempt multi-family housing revenue bonds for 17th Avenue Housing LLC.

Ward: Second

Neighborhood Group Notification: Marcy Holmes Neighborhood Association reviewed this proposal on January 16, 2001. Prospect Park and East River Road Improvement Association, Inc. reviewed this proposal on February 19, 2002.

Consistency with *Building a City That Works*: Provide a diversity of housing choices within each community by providing financial assistance to help maintain and construct new rental housing opportunities.

Comprehensive Plan Compliance: Project will comply.

Zoning Code Compliance: Complies.

Impact on MCDA Budget: (Check those that apply)

☐ No financial impact

☐ Action requires an appropriation increase to the MCDA Budget

☐ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☒ Other financial impact (Explain): Annual bond fees will be collected when the bonds are issued.

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Living Wage / Business Subsidy: Not applicable.

Job Linkage: Not applicable.

Affirmative Action Compliance: Will comply.

RECOMMENDATION:

City Council Recommendation: The Interim Executive Director recommends that the City Council adopt the attached resolution giving final approval of up to \$10,710,000 in 501(c)(3) tax-exempt Multi-family Housing Revenue Bonds and \$520,000 in taxable bonds for the Keeler Apartments project. Summary publication of the resolution is recommended.

Dear Council Member Goodman:

Background/Supporting Information

The Wedum Foundation is a 501(c)(3) family foundation, based in Minneapolis, whose primary focus is the support of youth through the advancement of higher education by generating new sources of scholarship funds and providing scholarships to worthy students. The Foundation has been assisted in achieving this mission through the development and ownership of multi-family housing, both senior and student housing. The proposed development is a student housing project whose developer is 17th Avenue Housing, LLC, a newly formed limited liability company organized in the State of Minnesota and is a wholly owned subsidiary of the Wedum Foundation.

Project Description:

The proposed project is the new construction of a five story building, located on the corner of 17th Avenue Southeast one block from the University of Minnesota campus. This vacant site is currently owned by the University Episcopal Center, who will retain ownership of the land and enter into a 60 year land lease with 17th Avenue Housing, LLC. The proposed building will be a mixed-use facility with the ground floor dedicated to university-related community functions, which will also include amenities such as an exercise and business room for the apartments. The upper floors will consist of 40 four-bedroom apartments, comprising of approximately 1,260 square feet, with anticipated rents of \$2,500 - \$2,700 and 4 one-bedroom apartments, comprising of approximately 450 square feet, with an anticipated rent of \$700. Parking will be provided primarily below grade on one level with additional guest parking on grade. The developer has agreed to make 20% of the units, available to students whose household incomes do not exceed 50% of the metropolitan median income.

Bond Information:

17th Avenue Housing LLC is requesting up to \$10,710,000 in tax-exempt housing development bonds and an estimated \$520,000 in taxable bonds for acquisition and construction expenses with this development. The bonds will be secured by a guarantee provided by the Wedum Foundation (borrower) in the form of a letter of credit

or cash deposit of \$1,000,000. It is also proposed that the Bonds will be privately placed and will carry a 35-year term.

Sources of Funds

Revenue Bonds	\$10,710,000
Taxable Bonds	<u>520,000</u>
Total Sources	\$11,230,000

Uses

Land Acquisition	\$ 1,000,000
Construction	6,821,483
Contingency	358,603
Fees (Architect, Title, Appraisal, etc.)	847,525
Developer Fee	278,551
Reserves (Debt Service, Replacement, Operating)	<u>1,923,838</u>
	\$11,230,000

HRB Entitlement

The Bond issue is a 501(c)(3); therefore no Entitlement authority is needed.

Bond Counsel Kennedy & Graven

Underwriter Miller Johnson Steichen Kinnard

Council Member Informed - Ward 2,

Recommendation: It is recommended that the city Council adopt the attached resolution granting final approval of up to \$10,710,000 in 501(c)(3) tax exempt Multifamily Housing Development Bonds and \$520,000 in taxable bonds for the Keeler Apartments project. Summary publication of the Resolution is recommended.

This report was prepared by Dollie Crowther and Cherre' Palenius. For further information, please call 612-673-5263 or 612-673-5241.

Authorizing the issuance, sale, and delivery of the Housing Revenue Bonds (Keeler Apartments Project), Series 2002A and Taxable Series 2002B, of the City of Minneapolis, payable solely from revenues pledged pursuant to the Indenture; approving the form of and authorizing the execution and delivery of the Bonds and the related documents; and providing for the security, rights, and remedies with respect to the Bonds

Resolved by the City Council of the City of Minneapolis, Minnesota:

Section 1. Recitals.

1.01. **The City.** The City of Minneapolis, Minnesota (the “City”), is a municipal corporation duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota.

1.02. **Statutory Authorization.** Pursuant to the laws of the State of Minnesota, particularly Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to carry out the public purposes described therein and contemplated thereby by issuing the City’s revenue bonds to provide funds to finance the acquisition, rehabilitation, or new construction of a multifamily housing development within the City’s boundaries, and is authorized to enter into any agreements made in connection therewith and pledge those agreements as security for the payment of the principal of, premium, if any, and interest on any such revenue bonds.

1.03. **The Borrower and the Project.** 17th Avenue Housing, LLC, a Minnesota limited liability company (the “Borrower”), whose sole member is Wedum Foundation, a Minnesota nonprofit corporation (“Wedum”) and an organization exempt from Federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the “Code”), as a result of the application of Section 501(c)(3) of the Code, has proposed that the City issue: (i) its Housing Revenue Bonds (Keeler Apartments Project), Series 2002A (the “Series 2002A Bonds”), in an original aggregate principal amount not to exceed \$10,710,000, and (ii) its Taxable Housing Revenue Bonds (Keeler Apartments Project), Series 2002B (the “Series 2002B Bonds” and together with the Series 2002A Bonds, the “Bonds”), in an original aggregate principal amount not to exceed \$520,000. The proceeds derived from the issuance and sale of the Bonds will be loaned by the City to the Borrower, to provide funds to finance: (i) the costs of developing, acquiring, constructing, equipping and making related improvements to a

forty-four (44) unit multifamily student housing facility primarily for rental to and occupancy by students attending the University of Minnesota-Minneapolis Campus (the "Project"); (ii) the funding of capitalized interest and certain reserves with respect to the Bonds and the Project; and (iii) the payment of the costs of issuing the Bonds.

Section 2. **Terms of the Bonds.**

2.01. **The Bonds.** The Bonds will be issued under an Indenture of Trust, dated as of July 1, 2002 (the "Indenture"), between the City and U.S. Bank National Association, a national banking association, as trustee (the "Trustee"). The principal of, premium, if any, and interest on the Bonds: (i) shall be payable solely from the revenue pledged therefor; (ii) shall not constitute a debt or a general or moral obligation of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against the City's general credit or taxing powers; and (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Project.

2.02. **The Loan.** The City will loan the proceeds derived from the issuance and sale of the Bonds to the Borrower pursuant to the terms of a Loan Agreement, dated as of July 1, 2002 (the "Loan Agreement"). The loan repayments to be made by the Borrower under the Loan Agreement are fixed to produce revenue sufficient to provide for the prompt payment of the principal of, premium, if any, and interest on the Bonds. The Loan Agreement and the Indenture also provide that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all lawfully imposed taxes and special assessments levied upon or with respect to the Project and payable during the terms of the Loan Agreement and the Indenture.

2.03. **The Security for the Bonds.** The repayment of the loan under the terms of the Loan Agreement and the payment of the principal of, premium, if any, and interest on the Bonds will be secured by: (i) a Combination Leasehold Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Rents and Leases, dated as of July 1, 2002 (the "Mortgage"), to provide security for the payment of the Bonds and for the performance of the Borrower's obligations under the Loan Agreement; and (ii) a Guaranty Agreement, dated as of July 1, 2002 (the "Guaranty"), between Wedum and the Trustee for the benefit of the Holders of the Bonds or a letter of credit from the Borrower in an amount of not less than \$1,000,000.

2.03. **Affordability Standard.** Pursuant to the Act, specifically Section 462C.05, subdivision 2, the Project is designed to be affordable by persons and families with adjusted gross income not in excess of the limits set forth in Section 462C.03 subdivision 2, of the Act and by other persons and families to the extent determined to be necessary in furtherance of the policy of economic integration stated in Minnesota Statutes, Section 462A.02, subdivision 6, as amended, with at least twenty percent of

the dwelling units held for occupancy by families or individuals with adjusted gross income not in excess of eighty percent of the median family income as estimated by the United States Department of Housing and Urban Development for the standard metropolitan statistical area. To ensure compliance with such occupancy restrictions under Section 462C.05, subdivision 2, of the Act, the Borrower will covenant under the terms of the Loan Agreement that it will comply with the affordability standard pursuant to Section 462C.05, subdivision 2, of the Act.

2.05. Assignment of City Interests. The City will assign its interests in the Loan Agreement, except for the City's rights to certain fee payments, indemnification, and rights to reimbursement of certain expenses, including the loan repayments required to be made by the Borrower under the terms of the Loan Agreement, to the Trustee under the terms of the Indenture.

2.06 Documents. Forms of the following documents have been submitted to the City and are now on file with the City: (i) the Loan Agreement; (ii) the Indenture; (iii) the Mortgage; (iv) the Disbursing Agreement, dated as of July 1, 2002 (the "Disbursing Agreement"), between the Borrower, the Trustee, and Commercial Partners Title, LLC, a Minnesota limited liability company, as disbursing agent; (v) the Bond Purchase Agreement; and (vi) the Ground Lease, dated as of July 1, 2002, between The University Episcopal Center, a Minnesota nonprofit corporation, and the Borrower.

Section 3. **Issuance of Bonds.**

3.01. Findings. The City Council of the City hereby finds, determines, and declares that:

(a) The issuance and sale of the Bonds, the execution and delivery by the City of the Loan Agreement, the Indenture, and the Bond Purchase Agreement, of even date herewith (the "Bond Purchase Agreement"), among the City, the Borrower, and Miller Johnson Steichen Kinnard, Inc. (the "Underwriter"), and the performance of all covenants and agreements of the City contained in the Loan Agreement, the Indenture, and the Bond Purchase Agreement are (i) authorized by the Act, (ii) consistent with the purposes of the Act, and (iii) constitute a public purpose and are in the best interests of the City.

(b) A housing program has been prepared with respect to the Project and the Borrower (the "Housing Program"). A public hearing was held with respect to the Project and the Housing Program on June 24, 2002 after publication of notice on June 8, 2002 in *Finance and Commerce*, the official newspaper and a newspaper of general circulation in the City, with respect to: (i) the required public hearing under Section 147(f) of the Code; (ii) the Housing Program; and (iii) the preliminary approval of the issuance of the Bonds. The City submitted the Housing Program to the Metropolitan Council for review and comment. The Housing Program did not include a discussion of the affordability standard for the Project required by Section 462C.05, subdivision 2, of the Act. The Housing Program will be supplemented (the "Supplemental Housing

Program”) to include information relating to the affordability standard of Section 462C.05, subdivision 2, of the Act and the Supplemental Housing Program will be submitted to the Metropolitan Council for review and comment.

3.02. Authorization. The City Council of the City, for the purposes set forth above, hereby authorizes:

(a) The issuance, sale, and delivery of the Bonds in an original aggregate principal amount not to exceed \$11,230,000 and in the form, and upon the terms and conditions set forth in the Indenture.

(b) The Loan Agreement, the Indenture, the Mortgage, the Bond Purchase Agreement, the Ground Lease, and the Disbursing Agreement are hereby approved in substantially the forms on file with the City on the date hereof, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof (including changes to the principal amount of the Bonds, the determination of the interest rates on the Bonds, changes to the terms of redemption of the Bonds, and changes to the terms of the City Documents, as hereinafter defined), or as the Mayor, Finance Officer, and City Clerk, in their discretion, shall determine, and the execution thereof by the Mayor, Finance Office, and City Clerk shall be conclusive evidence of such determination. The Mayor, Finance Officer, and City Clerk are authorized and directed to execute and deliver, on behalf of the City, the Loan Agreement, the Indenture, the Bond Purchase Agreement, and such other documents as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including UCC-1 financing statements, a Tax Compliance Certificate (including certifications as to arbitrage and rebate under Section 148 of the Code), the Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038 (Rev. January 2002), and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Bonds (the “City Documents”). Copies of all City Documents and all other documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein, in the Loan Agreement and in the Indenture. All of the provisions of the City Documents, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof.

(c) The adoption by the City of the Supplemental Housing Program providing the information required by Section 462C.03, subdivision 1, of the Act and including the affordability standard required under the terms of Section 462C.05, subdivision 2, of the Act.

3.03. Special, Limited Obligations. The Bonds shall be special, limited revenue obligations of the City, and the proceeds derived from the issuance and sale of the Bonds shall be disbursed pursuant to the terms of the Indenture, the Loan Agreement, and the Disbursing Agreement, and the principal of, premium, if any, and interest on the Bonds shall be payable solely from the proceeds of the Bonds, the revenues derived from the Loan Agreement and the other sources set forth in the Indenture.

3.04. Trustee as Paying Agent. The Trustee is hereby appointed as Paying Agent and Bond Registrar for the Bonds.

3.05. Disclosure Documents. The City has not participated in the preparation of any disclosure document with respect to the Bonds, including the Preliminary Official Statement (the "Preliminary Official Statement") or the Official Statement relating to the Bonds (the "Official Statement") and has made no independent investigation with respect to the information contained therein, including the Appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Bonds of the Preliminary Official Statement and the Official Statement. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the City for use in connection with the offer and sale of the Bonds. The City hereby approves the Continuing Disclosure Agreement, dated as of July 1, 2002 (the "Continuing Disclosure Agreement"), between the Borrower and the Trustee, in the form now on file with the City, and hereby authorizes the Trustee to execute and deliver the Continuing Disclosure Agreement, substantially in the form now on file with the City with such omissions and insertions as do not materially change the substance thereof, or as the Borrower and the Trustee, in their discretion, shall determine.

3.06. Rights Conferred. Nothing in this resolution or in the City Documents is intended or shall be construed to confer upon any person (other than as provided in the Indenture and the other agreements, instruments, and documents hereby approved) any right, remedy, or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

3.07. Severability. In case any one or more of the provisions of this resolution, other than the provisions contained in the first sentence of Section 3.03 hereof, or of the City Documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the City Documents, or of the Bonds, but this resolution, the City Documents, and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein.

3.08. Validity. The officers of the City, bond counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the City

Documents, and the Bonds for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Bonds, the City Documents and this resolution. In the event that for any reason the Mayor, Finance Officer, or City Clerk of the City is unable to carry out the execution of any of the documents or other acts provided herein, any other officer or employee of the City delegated to act in lieu of the Mayor, Finance Officer, or City Clerk shall be authorized to act in the capacity of the Mayor, Finance Officer, or City Clerk and undertake such execution or acts on behalf of the City with full force and effect, which execution or acts shall be valid and binding on the City.

3.09. **Effective Date.** This resolution shall be in full force and effect from and after its approval and publication.

**KEELER APARTMENTS PROJECT
CITY OF MINNEAPOLIS, MINNESOTA**

**SUPPLEMENTAL HOUSING PROGRAM FOR A
RESIDENTIAL RENTAL HOUSING DEVELOPMENT TO
BE FINANCED UNDER MINNESOTA STATUTES,
CHAPTER 462C**

1. City Housing Plan. The City of Minneapolis, Minnesota, a municipal corporation and a political subdivision of the State of Minnesota (the “City”), has adopted a housing component of its comprehensive plan (the “Housing Plan”) which serves as a basis for the provision of housing for residents of the community. The Housing Plan describes various housing needs in the City, including the supply of residences for low and moderate income persons and families, the supply of rental housing, and the existing housing stock for projected population growth. Under Chapter 462C, Minnesota Statutes, as amended (the “Act”), prior to issuing revenue bonds or other obligations to finance a residential housing development facility, as described in Section 462C.05, subdivision 1, of the Act, the City is required to adopt a program setting forth the information required by the Act, including but not limited to Section 462C.03, subdivision 1, of the Act. The multifamily housing development described in the program will assist the City in addressing the housing needs described in the Housing Plan through the provision of affordable rental housing for persons and families of low and moderate income at the most reasonably affordable rental rates, based on the lowest possible costs, all as authorized, contemplated, and provided by the Housing Plan.

2. Program. This housing program comprises an effort by the City, consistent with the Housing Plan, to meet the aforementioned housing needs of the City by financing the acquisition and construction of a multifamily housing development, to be known as Keeler Apartments, to be located at the northeast corner of the intersection of 17th Avenue S.E. and 4th Street S.E. in the City (the “Project”). The units of the Project will be rented primarily to students attending the University of Minnesota-Minneapolis Campus. The Project is described in greater detail in paragraph 4 below. The method of financing to be advanced for this program will consist of the issuance of one or more series of revenue bonds (the “Bonds”) by the City pursuant to the Act. Such Bonds shall comprise permanent financing for the Project. The financing is proposed to be undertaken by the City in order to ensure that the Project remains available and affordable to the proposed tenants of the Project.

The proceeds derived from the sale of the Bonds will be loaned to 17th Avenue Housing LLC, a Minnesota limited liability company of which Wedum Foundation, a Minnesota nonprofit corporation, is the sole member, or to a related entity (the “Borrower”), pursuant to the terms of a loan agreement (the “Loan Agreement”). The Borrower will apply the proceeds of such loan to the acquisition and construction of the Project. Under the terms of the Loan Agreement, the Borrower will make loan repayments on such dates and in such amounts sufficient to provide for the payment of the principal of and interest on the Bonds when due. Additional security may be provided for the Bonds as determined by the purchasers of the

Bonds, including a mortgage on the Project, an assignment of the leases and rents from the operation of the Project, and such other security as may be required by such purchasers. The aggregate principal amount of the Bonds is not expected to exceed \$11,080,000. The construction of the Project will be completed within one year from the date of issuance of the Bonds.

This program is contemplated to be undertaken pursuant to Section 462C.05, subdivision 1(a), of the Act. The Bonds to be issued to finance the Project are proposed to be issued as “qualified 501(c)(3) bonds”, as such term is defined in Section 145 of the Internal Revenue Code of 1986, as amended (the “Code”).

No portion of the volume cap (as defined in Section 146 of the Code and hereinafter referred to as the “Volume Cap”) of the State of Minnesota and no portion of the Volume Cap of the State of Minnesota allocated to the City is required for the issuance of the qualified 501(c)(3) bonds proposed to be issued to finance the Project.

3. Need for the Program. The City’s Housing Plan establishes the need and necessity for the permanent financing of the housing and other facilities included in this program. The Housing Plan recognizes the goal established for the City of increasing the number of units of affordable housing for students attending institutions of higher education in the City. Also, the Housing Plan affirms that achievement of the City’s housing goals is to occur through private development, supported by government financing programs. By virtue of issuing the Bonds, the City will be assisting in the provision of affordable housing for low and moderate income persons and families in the City.

4. Description of Project. The Project is located at the northeast corner of the intersection of 17th Avenue S.E. and 4th Street S.E. in the City. It is in close proximity to the University of Minnesota and the Central Business District of the City. The Project enjoys easy access to public transportation and the interstate highway system of the metropolitan area.

The Project consists of one building, a parking facility, and associated green space. The Project contains 44 apartment-style units comprised of four (4) one-bedroom units and forty (40) four-bedroom units. All units include full kitchens. The one-bedroom units have one bath and the four-bedroom units have two baths. Laundry facilities are located in each unit. All appliances are provided in the base rent.

The building is five stories in height. The first story is reserved for parking and common areas. The residential units are located in stories two through five of the building. There are several common area amenities for use by all residents. These include a community room, a fitness facility, a tutoring room, and a bicycle storage area. There is an on-site management and leasing office located near the entry vestibule.

The parking facility for the Project is constructed as a lower-level parking area consisting of forty-eight (48) spaces.

5. Financing. The proceeds derived from the sale of the Bonds will be loaned to the Borrower pursuant to the terms of the Loan Agreement. The Borrower will apply the proceeds of such loan to the acquisition and construction of the Project. Under the terms of the Loan Agreement, the Borrower will make loan repayments on such dates and in such amounts sufficient to provide for the payment of the principal of and interest on the Bonds when due. Additional security may be provided for the Bonds as determined by the purchasers of the Bonds, including a mortgage on the Project, an assignment of the leases and rents from the operation of the Project, and such other security as may be required by such purchasers. The aggregate principal amount of the Bonds is not expected to exceed \$11,230,000. The Bonds will be issued as tax-exempt qualified 501(c)(3) bonds. It is anticipated that the issuance of the Bonds and the acquisition and construction of the Project will be completed within one year from the date of issuance of the Bonds. If necessary as a loan underwriting requirement, one or more reserves will be established and funded. Reasonable costs of issuing the Bonds may be financed with the proceeds of the Bonds to the extent permitted by law. Costs of issuance in excess of the available proceeds of the tax-exempt series of Bonds and certain other costs will be paid by the Borrower from other sources.

6. Affordability Standard. Pursuant to the Act, specifically Section 462C.05, subdivision 2, the Project is designed to be affordable by persons and families with adjusted gross income not in excess of the limits set forth in Section 462C.03 subdivision 2, of the Act and by other persons and families to the extent determined to be necessary in furtherance of the policy of economic integration stated in Minnesota Statutes, Section 462A.02, subdivision 6, as amended, with at least twenty percent of the dwelling units held for occupancy by families or individuals with adjusted gross income not in excess of eighty percent of the median family income as estimated by the United States Department of Housing and Urban Development for the standard metropolitan statistical area. To ensure compliance with such occupancy restrictions under Section 462C.05, subdivision 2, of the Act, the Borrower will covenant under the terms of the Loan Agreement that it will comply with the affordability standard pursuant to Section 462C.05, subdivision 2, of the Act.